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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,673	10/11/2000	Hisashi Mitamura	198337US3	3794

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

MACKEY, JAMES P

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 03/17/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application N . 09/684,673	Applicant(s) MITAMURA, HISASHI	
	Examiner James Mackey	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, lines 6-7, "an optional placing part direction" is unclear and indefinite as to exactly what is intended by an optional direction.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,196,819 in view of Irie (U.S. Patent 5,820,885; Figures 12-13; col. 12, lines 37-59).

Claim 1 of U.S. Patent 6,196,819 recites the tire vulcanizing equipment substantially as claimed in instant claims 1-15, except for the housing shelf of the vulcanizing station having plural vertical stages of the placing parts for placing the tire mold assemblies, and except for the transfer station being vertically movable along the housing shelf to selectively retrieve tire mold assemblies from one of the vertically arranged placing parts of the housing shelf; however, such

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is disclosed in Irie '885, and it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tire vulcanizing equipment as claimed in claim 1 of U.S. Patent 6,196,819 by providing such a housing shelf and transfer station as disclosed in Irie '885 in order to increase productivity while minimizing factory floor space.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6 and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Irie (U.S. Patent 5,820,885; Figures 12-13; col. 12, lines 37-59). Note especially column 12, lines 57-58, which refer to raising and lowering the transfer station (“carrying surface”) to vertically align with a “lower mold base” and an “upper mold base” (see element 14) as is clearly shown in Figure 13.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Document 11-245231 in view of Irie (U.S. Patent 5,820,885; Figures 12-13; col. 12, lines 37-59).

Japan '231 discloses a tire vulcanizing equipment comprising a vulcanizing station having a housing shelf with plural stages of placing parts for placing tire mold assemblies,

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including piping for supplying and discharging heating medium to the mold assemblies; an opening and closing station having a placing part for placing a tire mold assembly, an opening/closing device for opening and closing the tire mold assembly placed on the placing part of the opening and closing station, a green tire loader for loading green tires from a supply line to the tire mold assembly and a vulcanized tire unloader for unloading vulcanized tires from the tire mold assembly to a removal line; an auxiliary opening and closing station; and a transfer station for transferring the tire mold assembly between a selective one of the placing parts of the housing shelf and the placing part of the opening and closing station, except for the transfer station being vertically movable along the housing shelf for receiving tire mold assemblies from plural vertical stages of placing parts of the housing shelf. Irie '885 discloses a tire vulcanizing equipment including a vulcanizing station having a housing shelf with plural vertical stages of placing parts for placing tire mold assemblies, including piping for supplying and discharging heating medium to the mold assemblies; an opening and closing station having a placing part for placing a tire mold assembly, an opening/closing device, a tire loader and a tire unloader; an auxiliary opening and closing station; and a transfer station for transferring the tire mold assembly between a selective one of the vertical stages of placing parts of the housing shelf and the placing part of the opening and closing station, wherein the transfer station is vertically movable along the housing shelf (note especially column 12, lines 57-58, which refer to raising and lowering the transfer station or "carrying surface" to vertically align with a "lower mold base" and an "upper mold base"--see element 14--as is clearly shown in Figure 13). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Japan '231 by providing the housing shelf with plural vertical stages of placing parts, with the transfer

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station including means for vertically moving the transfer station along the housing shelf to selectively retrieve the tire mold assemblies from one of the vertically arranged placing parts of the housing shelf, as disclosed in Irie '885, thereby increasing productivity while minimizing factory floor space.

9. Applicant's arguments filed 04 February 2003 have been fully considered but they are not persuasive.

Applicant argues that Irie '885 does not teach a housing shelf with plural vertical stages in the vulcanizing station; however, such is clearly taught in Irie '885. Note especially col. 12, lines 57-58, which refer to raising and lowering the transfer station ("carrying surface") to vertically align with a "lower mold base" and an "upper mold base" (see element 14) as is clearly shown in Figure 13.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

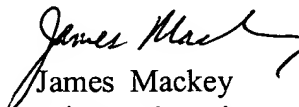
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 703-308-1195. The examiner can normally be reached on M-F, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


James Mackey
Primary Examiner
Art Unit 1722

3/15/03

jpm
March 15, 2003